

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Implementation of the Telecommunications Act
of 1996

Telecommunications Carriers' Use of
Customer Proprietary Network Information and
Other Customer Information

RECEIVED
CC Docket No. 96-115
JAN 11 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**BELL ATLANTIC'S¹ OPPOSITION TO
ADP'S PETITION FOR RECONSIDERATION**

ADP asks the Commission to reverse a number of the decisions it made in the Order it released in September² and to make significant changes to the new rules governing the provision of subscriber list information. ADP does not show, however, that the Commission misread section 222(e) or ignored facts in the record before it. Nor does ADP demonstrate that the changes it seeks are necessary to further the public interest. Its petition should, therefore, be denied.

ADP continues to try to rewrite the statute or to get the Commission to rewrite the statute through the rulemaking process. The Commission should once again refuse to do so. For example, ADP would have the Commission broaden the carefully crafted statutory definition of

¹ Bell Atlantic-Delaware, Inc.; Bell Atlantic-Maryland, Inc.; Bell Atlantic-New Jersey, Inc.; Bell Atlantic-Pennsylvania, Inc.; Bell Atlantic-Virginia, Inc.; Bell Atlantic-Washington, D.C., Inc.; Bell Atlantic-West Virginia, Inc.; New York Telephone Company and New England Telephone and Telegraph Company.

² *Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information*, CC 96-115, Third Report and Order (rel. Sept. 9, 1999)("Order").

“subscriber list information.”³ ADP would go beyond the clear language of the Act to include two types of information in addition to information about the “subscribers of a carrier” that “the carrier or affiliate has published, caused to be published, or accepted for publication.”⁴ In its Rules, the Commission recognized that the Act only required carriers to provide information about their subscribers, and only information that the carrier has published or accepted for publication. The Commission should continue to refuse to extend the language of the Act to go beyond that.

The Commission opened this proceeding to consider what new regulations, if any, might be necessary to implement section 222, added to the Act by the Telecommunications Act of 1996.⁵ ADP asks that the new rules be modified, not because the words of section 222 require any such change, but rather because ADP believes that changes are necessary to satisfy the general requirements of sections 201 and 202.⁶ It was not the purpose of this proceeding to write rules under these sections, however,⁷ and the Commission should not begin such an exercise at this point. Moreover, as the Commission noted,⁸ if any carrier violates sections 201 or 202, it is prepared to take action to remedy the situation.

ADP would also have the Commission extend section 222(e), which was carefully drafted to apply only to “a telecommunications carrier that provides telephone exchange service,” to

³ 47 U.S.C. § 222(h)(3)(B).

⁴ ADP at 3-4 & 5-6.

⁵ *Telecommunications Carriers’ Use of Customer Proprietary Network Information and Other Customer Information*, 11 FCC Rcd 12513 ¶¶ 12, 15, 19, 43-46 (1996).

⁶ ADP at 3-11.

⁷ Order ¶ 18.

⁸ E.g., Order ¶ 41.

affiliates of such carriers.⁹ Such a change is not required. All carriers are obligated to satisfy the obligations of section 222(e). If, as ADP alleges, ALLTEL Corporation is not complying with the Act, then ADP's appropriate remedy is against ALLTEL Corporation. There is no need to impose any obligations on non-carriers, whether they be separate entities or affiliated entities. If Congress had intended to do so, it would have done so explicitly, as it did elsewhere in the 1996 Act.¹⁰

ADP next asks the Commission to reduce from thirty to seven days the period within which exchange carriers must inform independent publishers if they cannot comply with a request for certain data. The thirty day period represented a reasonable balance of the various interests and workloads associated with such a request, and there is no need to change it.


Last, ADP asks the Commission for special privileges for independent publishers. It asks for a guarantee that publishers' complaints will be resolved within thirty days or placed on the Accelerated Docket, and it wants the complaint procedures modified to provide special interim relief for independent publishers. Neither change is warranted. While Bell Atlantic has no problem resolving disputes quickly, the Commission well knows that these are not the only disputes before the Commission, and are hardly the most significant. To devote resources on these matters at the expense of other more substantial questions would not be in the public interest. Similarly, there is no reason to give independent publishers interim rights that are not available to any other complainant.

⁹ ADP at 12-14.

¹⁰ *E.g.*, sections 271(a), 272(a)(1), 274(a), 275(a).

ADP has not provided any reason for the Commission to change the subscriber list information rules it adopted in this proceeding, and its petition for reconsideration should, therefore, be denied.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "John M. Goodman", is written over a horizontal line.

John M. Goodman

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Dated: January 11, 2000

CERTIFICATE OF SERVICE

I, Fran Folgner, hereby certify that on this 11th day of January 2000, a copy of the foregoing was served by hand-delivery and US Mail on the following parties. Service was hand delivered where indicated with an asterisk.


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